

NAGACO.018CP1



COPY

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Phan, et al. )  
)  
Appl. No.: 10/087,549 )  
)  
Filed: February 28, 2002 )  
)  
For: METHODS FOR DECREASING )  
NON-SPECIFIC BINDING OF )  
BEADS IN DUAL BEAD ASSAYS )  
INCLUDING RELATED OPTICAL )  
BIODISKS AND DISC DRIVE )  
SYSTEMS )  
)  
Examiner: Diana B. Johannsen )  
)  
Group Art Unit: 1634 )

PETITION TO FILE DECLARATIONS ON BEHALF OF NONSIGNING INVENTORS WHO  
REFUSE TO SIGN OR CANNOT BE REACHED UNDER 37 CFR 1.47(A)

**Mail Stop Petition**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed April 27, 2004, Applicants hereby petition under the provisions of 37 C.F.R. § 1.47(a), that the Commissioner accept for filing and examine the above-identified patent application despite the fact that the Oath/Declaration filed on July 15, 2002, includes a non-initialed, non-dated alteration of inventor KaYuen Yeung's address. Applicants have been unable to secure another oath/declaration from KaYuen Yeung despite diligent efforts and numerous requests on behalf of the inventors who have executed declarations. In support for this petition, Applicants provide the following:

COPY

BEST AVAILABLE COPY

DECLARATION OF INVENTORSHIP

When the instant Application was filed on February 28, 2002, a Declaration of Inventorship was also filed that was executed by two of the three inventors, Brigitte Chau Phan and Amethyst Hoang Lam. On April 27, 2004, a Notice of Missing Parts was mailed indicating that a filing fee and Declaration needed to be filed in the above captioned Application. In response, another Declaration of Inventorship was submitted on July 15, 2002, that was executed by two of the three inventors, including Brigitte Chau Phan (who had signed the February 28, 2002 Declaration) and the third named inventor KaYuen Yeung (who had not signed the original Declaration submitted on February 28, 2002).

In an Office Action mailed on April 27, 2004, the Examiner notified Applicants that the July 15, 2002, Declaration was defective. In particular, the original typed address of inventor KaYuen Yeung's had been lined-out and replaced with a handwritten address. This change had not been initialed or dated. As such, the Examiner requested that a new declaration be provided.

Despite diligent efforts outlined in the attached Declaration of Jerry L. Hefner, Applicants have been unable to secure a replacement declaration from KaYuen Yeung. Applicants therefore respectfully submit that the Declarations of Inventorship filed on February 28, 2002 and July 15, 2002, which include unaltered signatures of two of the three inventors, Brigitte Chau Phan and Amethyst Hoang Lam, satisfy the requirement that all available joint inventors must (i) execute an oath or declaration on their own behalf as required by 37 C.F.R. § 1.63 and (ii) execute an oath or declaration on behalf of the nonsigning joint inventor as required by 37 C.F.R. § 1.64, and in accordance with MPEP § 409.03(a) "an oath or declaration signed by all the available joint inventors with the signature block of the non-signing joint inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated."

STATEMENTS OF FACTS

Applicant provides the following declaration, attached herewith, in support of its conclusion that KaYuen Yeung refuses to sign and/or cannot be reached:

Appl. No.: 10/087,549  
Filed: February 28, 2002

1. Declaration of Jerry L. Hefner in Support of Petition To File Declaration On Behalf Of Nonsigning Inventors Who Refuse to Sign or Cannot Be Reached Under 37 CFR 1.47(a).

The Declaration shows the efforts of Applicants to contact KaYuen Yeung by certified U.S. Mail to obtain her cooperation. Applicants have also attempted to locate KaYuen Yeung by performing a skip trace and by requesting address service and return service via U.S. Mail. Despite these diligent efforts, Applicants have been unable to contact KaYuen Yeung or obtain an unaltered Declaration of Inventorship from her.

#### LAST KNOWN ADDRESS OF THE NONSIGNING INVENTORS

The last known address for KaYuen Yeung is: 1326 Third Avenue, San Francisco, CA 94122. KaYuen Yeung is a United States citizen.

#### CONCLUSION

Based on the foregoing, it is submitted that diligent efforts has been made to obtain an unaltered Declaration of Inventorship from KaYuen Yeung. Despite these diligent efforts, Applicants have not been able to obtain another declaration from KaYuen Yeung. Applicants submit that the remaining joint inventors, Brigitte Chau Phan and Amethyst Hoang Lam, make the application for patent on behalf of themselves and on behalf of KaYuen Yeung in accordance with 37 C.F.R. § 1.47 (a). Furthermore, Applicants respectfully submit that the Declarations of Inventorship submitted on February 28, 2002 and July 15, 2002, satisfy the requirement that all available joint inventors (i) make oath or declaration on their own behalf as required by 37 C.F.R. § 1.63 and (ii) make oath or declaration on behalf of the nonsigning joint inventor(s) as required by 37 C.F.R. § 1.64.

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Appl. No.: 10/087,549  
Filed: February 28, 2002

Applicants respectfully request that this petition under 37 C.F.R. §1.47(a) be granted and that the Applicants be allowed to file and prosecute the above-identified patent application without an unaltered oath/declaration from KaYuen Yeung. If there are any obstacles to a prompt approval of this petition, the Patent and Trademark Office is invited to call the undersigned attorney.

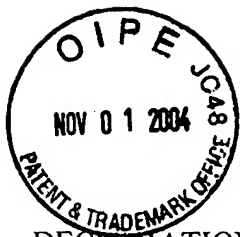
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 27, 2004

By:   
Jerry L. Hefner  
Registration No. 53,009  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550

S:\DOCS\NHD\NHD-1029.DOC\102604



COPY

DECLARATION IN SUPPORT OF PETITION TO FILE DECLARATION ON BEHALF  
OF NONSIGNING INVENTORS WHO REFUSE TO SIGN OR CANNOT BE REACHED  
UNDER 37 CFR 1.47(A)

I, Jerry L. Hefner, hereby declare that, to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

- 1) I am an associate attorney at Knobbe, Martens, Olson & Bear, LLP ("KMOB") and help coordinate prosecution of patent matters assigned to our client, Nagaoka and Co., LTD ("Nagaoka").
- 2) On November 4, 2003, Burstein Technologies, Inc. ("BTI") sold an undivided partial ownership interest in all intellectual property matters to Nagaoka. Prior to November 4, 2003, BTI terminated all employees.
- 3) On February 28, 2002, a patent application was filed on behalf of Nagaoka, entitled "Methods for Decreasing Non-Specific Binding of Beads in Dual Bead Assays Including Related Optical Biodisks and Disk Drive Systems" This application claims priority to provisional applications and is subject to the November 4, 2003 assignment from BTI to Nagaoka. Accordingly, the listed inventors were previous employees of BTI.
- 4) This application was assigned Application Number 10/087,549 ("the '549 application") by the U.S. Patent and Trademark Office.
- 5) Filed concurrently with the patent application on February 28, 2002, was a Declaration of Inventorship executed by two of the three inventors, Brigitte Chau Phan and Amethyst Hoang Lam.
- 6) On or about April 22, 2002, the U.S. Patent and Trademark Office mailed a Notice To File Missing Parts Of Nonprovisional Application, indicating that the filing fee and an Oath or Declaration were missing from the original application filing. The missing parts notice set a two month initial deadline for submitting the missing declaration and filing fee. Thus, the initial deadline for filing these documents was June 22, 2002.
- 7) On or about July 15, 2002, a Response to the Notice to File Missing Parts was filed, including a Declaration of Inventorship signed by the third inventor, KaYuen Yeung, and also the first inventor, Brigitte Chau Phan, who had also signed the February 28, 2002 Declaration of Inventorship.

COPY

**Diligent Efforts Attempting to Secure an Unaltered Declaration of Inventorship from  
KaYuen Yeung**

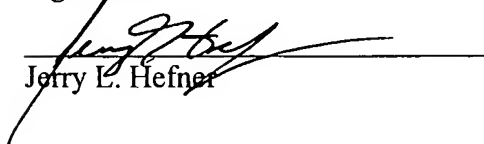
- 8) On or about April 27, 2004, an Office Action was mailed wherein the Examiner informed Applicants that the Oath/Declaration filed on July 15, 2002, was defective because there was a non-initialed, non-dated alteration to the address of inventor KaYuen Yeung.
- 9) After receiving the April 27, 2004, Office Action, I attempted to contact KaYuen Yeung to secure an unaltered Declaration of Inventorship for the '549 application. As outlined below, however, despite diligent efforts I was unable to secure an unaltered, executed declaration from KaYuen Yeung.
- 10) On or about July 30, 2004, I prepared and sent a letter to KaYuen Yeung, which explained that the filing of US Patent Application No. 10/087,549 would be incomplete unless she signed and returned to us the Declaration of Inventorship that was enclosed with the letter. The letter was sent via U.S. Certified Mail to Ms. Yeung's address at 1326 Third Avenue, San Francisco, CA 94122. A return receipt indicates that the letter was forwarded and delivered on August 16, 2004, to an address in Brooklyn, NY. Although the letter was delivered, I received no response from Ms. Yeung. A copy of the return receipt signed by "Helen K. Yeung" is attached hereto as Exhibit A.
- 11) On August 27, 2004, after receiving the certified mail return receipt, an attempt was made to obtain the address of inventor KaYuen Yeung by using the United States Post Office on-line tracking service. The on-line tracking information for this letter indicates that it was forwarded from the San Francisco, CA address on August 3, 2004, that a Notice was sent to a Brooklyn, NY 11215 address on August 9, 2004, and that the letter was delivered on August 16, 2004 in Brooklyn, NY 11215. The tracking information for the address service request does not give a street address, but rather, just indicates that the letter was delivered to Brooklyn, NY. The tracking information is attached hereto as Exhibit B.
- 12) On or about August 27, 2004, I had an envelope marked \*\*ADDRESS SERVICE REQUESTED\*\*\* prepared and sent to Ms. Yeung at 1326 Third Avenue, San Francisco, CA 94122 in an attempt to ascertain the Brooklyn address. Despite this effort, the Post Office did not return the Brooklyn, NY address. The envelope marked \*\*ADDRESS SERVICE REQUESTED\*\*\* is attached hereto as Exhibit C.
- 13) On or about September 24, 2004, I prepared and sent another letter to KaYuen Yeung, which again explained that the filing of US Patent Application No. 10/087,549 would be incomplete unless she signed and returned to us the Declaration of Inventorship that was enclosed with

**Diligent Efforts Attempting to Secure an Unaltered Declaration of Inventorship from  
KaYuen Yeung**

the letter. The letter was sent via U.S. Certified Mail to Ms. Yeung's address at 1326 Third Avenue, San Francisco, CA 94122. A return receipt indicates that the letter was forwarded and delivered on October 13, 2004, to an address in Brooklyn, NY. Although the letter was delivered, I received no response from Ms. Yeung. A copy of the return receipt was returned and signed with a signature identical to the one from the return receipt of the July 30, 2004, letter that was signed by "Helen K. Yeung." The return receipt from the September 24, 2004, letter is attached hereto as Exhibit D.

- 14) On or about October 18, 2004, I had an envelope marked \*\*\*\*RETURN SERVICE REQUESTED\*\*\*\* prepared and sent to Ms. Yeung at 1326 Third Avenue, San Francisco, CA 94122 in an attempt to ascertain the Brooklyn address. Despite this effort, the Post Office did not return neither the envelope nor the Brooklyn, NY address. The envelope marked \*\*\*\*RETURN SERVICE REQUESTED\*\*\*\* is attached hereto as Exhibit E.
- 15) On or about October 21, 2004, I received the results of a skip trace that was performed by KMOB's in-house researchers. The results are attached hereto as Exhibit F. These results indicate that KaYuen Yeung goes by the alias "Helen Yeung" and thus verifies that the person who signed the return receipts from the July 30, 2004 and September 24, 2004, letters was KaYuen Yeung. The skip trace did not find an address for Ms. Yeung in Brooklyn, NY, but it was able to verify that her last known address is 1326 Third Avenue, San Francisco, CA 94122. The skip trace also verified the last known phone number of Ms. Yeung, which has a 415 area code from the San Francisco area.
- 16) Calls placed to KaYuen Yeung at the 415 area code number have verified that the number is disconnected.

Signature:

  
Jerry L. Hefner

Date:

October 27, 2004

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>2. Print your name and address on the reverse so that we can return the card to you.</p> <p>3. Attach this card to the back of the mailpiece or on the front if space permits.</p> <p>Article Addressed to:</p> <p>Robert V. ...            1326 Third Avenue            SE, CA 94102</p> <p>Article Number: 7003 2260 0003 1118 6899</p> <p>(Transfer from service label)</p> <p>PS Form 3841, August 2001</p>		<p>4. Signature</p> <p><i>[Signature]</i></p> <p>5. Received by (Printed Name): <i>[Name]</i> Date of Delivery: <i>[Date]</i></p> <p>6. Is delivery address different from item 2? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>(If YES, enter delivery address below)</p> <p>7. Service type:</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> COD</p> <p>Restricted Delivery (Extra fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

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<p>PS Form 3800, June 2002</p> <p>See Reverse for Instructions</p>											



# **Knobbe Martens Olson & Bear LLP**

*Intellectual Property Law*

550 West C Street  
Suite 1200  
San Diego CA 92101  
Tel 619-235-8550  
Fax 619-235-0176  
www.kmob.com

Jerry L. Hefner, Ph.D.  
jhefner@kmob.com

July 30, 2004  
CERTIFIED MAIL

KaYuen Yeung  
1326 Third Avenue  
San Francisco, California 94122

Re: U.S. Patent Application  
Title: METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS  
IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL  
BIODISCS AND DISC DRIVE SYSTEMS  
Application No.: 10/087,549 – Filed: February 28, 2002  
Our Reference: NAGACO.018CP1

Dear KaYuen Yeung:

As you may know, Nagaoka and Co., LTD is a partial owner of all intellectual property (including unfiled and pending patent applications, as well as issued patents) that were previously owned exclusively by Burstein Technologies, Inc. ("BTI"). As partial owner, Nagaoka is handling filing of new patent applications and maintaining those pending application. Our firm, Knobbe, Martens, Olson & Bear, LLP, has been retained by Nagaoka to handle these matters on their behalf.

You are listed as an inventor on an application entitled, "DUAL BEAD ASSAYS INCLUDING OPTICAL BIODISCS AND METHODS RELATING THERETO," which was filed in the U.S. Patent Office on November 27, 2001. In order to maintain a priority claim to this application, we have filed a corresponding continuation-in-part application on February 28, 2002. Attached are the specification and figures for the patent application that was filed on February 28, 2004, which may be referenced using our docket no. NAGACO.018CP1.

In order to complete the filing of the above-listed application, we are required to submit certain formal documents to the U.S. Patent Office, each requiring your signature. These documents include (1) a declaration indicating that you are an inventor of the specific invention embodied in the attached specification and figures and (2) an assignment that transfers all rights in this application to BTI. Please note that, while notarization of the assignment is preferred, it is not required. If a notary is easily accessible, we will gladly reimburse you for their fee.

Please review the attached declaration and assignment to ensure that they are accurate. You may then execute each document and return to me via facsimile (619-235-0176), email

Orange County  
949-760-0404

San Francisco  
415-954-4114

Los Angeles  
310-551-3450

Riverside  
951-781-9231

San Luis Obispo  
805-547-5580

KaYuen Yeung  
July 30, 2004  
Page -2-

(such as in a scanned pdf file) [jhefner@kmob.com](mailto:jhefner@kmob.com), or U.S. Mail. We look forward to receiving the completed documents discussed above. If you have any questions, please contact me.

Sincerely,



Jerry L. Hefner

Enclosures

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**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL BIODISCS AND DISC DRIVE SYSTEMS; the specification of which was filed on **February 28, 2002** as Application Serial No. **10/087,549**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.	Filing Date
60/272,134	February 28, 2001
60/272,243	February 28, 2001
60/272,525	March 1, 2001
60/275,006	March 12, 2001
60/275,643	March 14, 2001
60/278,691	March 26, 2001
60/314,906	August 24, 2001
60/352,270	January 30, 2002

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application(s)

Application No.: **09/997,741**

Filing Date: **11/27/01**

Status: **Pending**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

---

Full name of first inventor: **Brigitte Chau Phan**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 15910 Meagher, Fountain Valley, CA 92708

Citizenship: United States

Post Office Address: Same as residence address

Full name of second inventor: **Amethyst Hoang Lam**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 5 Middleton, Irvine, CA 92620

Citizenship: United States

Post Office Address: Same as residence address

Full name of third inventor: **KaYuen Yeung**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 1326 Third Avenue, San Francisco, California 94122

Citizenship: United States

Post Office Address: Same as residence address

---

Send Correspondence To:  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
Customer No. 20,995  
S:\DOCS\VLH\VLH-2831.DOC\072904

ASSIGNMENT

WHEREAS, I, KaYuen Yeung, a United States citizen, residing at 1326 Third Avenue, San Francisco 94122, have invented certain new and useful improvements in a METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL BIODISCS AND DISC DRIVE SYSTEMS for which I have filed an application for Letters Patent in the United States, Application No. 10/087,549, filing date February 28, 2002;

AND WHEREAS, BURSTEIN TECHNOLOGIES, INC., (hereinafter "ASSIGNEE"), a Delaware Corporation, with its principal place of business at 163 Technology Drive, Suite 200, Irvine, California 92618, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, I, the said inventor, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I DO HEREBY sell, assign, transfer, and convey to ASSIGNEE, his successors, legal representatives, and assigns all claims for damages and all remedies arising out of any violation of the rights assigned hereby that may have accrued prior to the date of assignment to ASSIGNEE, or may accrue hereafter, including, but not limited to, the right to sue for, collect, and retain damages for past infringements of the said Letters Patent before or after issuance.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

KaYuen Yeung

STATE OF

COUNTY OF

ss.

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared KaYuen Yeung personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Signature



## Track & Confirm

### Shipment Details

You entered 7003 2260 0003 1118 6899

Your item was delivered at 1:32 pm on August 16, 2004 in BROOKLYN, NY 11215.

Here is what happened earlier:

- NOTICE LEFT, August 09, 2004, 1:35 pm, BROOKLYN, NY 11215
- FORWARDED, August 03, 2004, 9:41 am, SAN FRANCISCO, CA

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**Knobbe Martens Olson & Bear LLP**

*Intellectual Property Law*  
550 West C Street Suite 1200  
San Diego CA 92101

JLH

KaYuen Yeung  
1326 Third Avenue  
San Francisco, CA 94122

**\*\*ADDRESS SERVICE REQUESTED\*\***

NAGACO.018CP1

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  </p> <p style="text-align: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p style="font-size: 1.2em; margin-top: 10px;">KA YUEN YEUNG 1326 Third Avenue San Francisco CA 94122</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered    <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail    <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7004 0750 0002 8442 9200</p>	

PS Form 3811, February 2004      Domestic Return Receipt      102595-02-M (54)

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

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PS Form 3800, June 2002
See Reverse for Instructions



September 24, 2004

CERTIFIED MAIL

KaYuen Yeung  
1326 Third Avenue  
San Francisco, California 94122

Re: U.S. Patent Application  
Title: METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS  
IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL  
BIODISCS AND DISC DRIVE SYSTEMS  
Application No.: 10/087,549 – Filed: February 28, 2002  
Our Reference: NAGACO.018CP1

Dear KaYuen Yeung:

As you may know, Nagaoka and Co., LTD is a partial owner of all intellectual property (including unfiled and pending patent applications, as well as issued patents) that were previously owned exclusively by Burstein Technologies, Inc. ("BTI"). As partial owner, Nagaoka is handling filing of new patent applications and maintaining those pending application. Our firm, Knobbe, Martens, Olson & Bear, LLP, has been retained by Nagaoka to handle these matters on their behalf.

You are listed as an inventor on an application entitled, "DUAL BEAD ASSAYS INCLUDING OPTICAL BIODISCS AND METHODS RELATING THERETO," which was filed in the U.S. Patent Office on November 27, 2001. In order to maintain a priority claim to this application, we have filed a corresponding continuation-in-part application on February 28, 2002. Attached are the specification and figures for the patent application that was filed on February 28, 2004, which may be referenced using our docket no. NAGACO.018CP1.

In order to complete the filing of the above-listed application, we are required to submit certain formal documents to the U.S. Patent Office, each requiring your signature. These documents include (1) a declaration indicating that you are an inventor of the specific invention embodied in the attached specification and figures and (2) an assignment that transfers all rights in this application to BTI. Please note that, while notarization of the assignment is preferred, it is not required. If a notary is easily accessible, we will gladly reimburse you for their fee.

Please review the attached declaration and assignment to ensure that they are accurate. You may then execute each document and return to me via facsimile (619-235-0176), email

KaYuen Yeung  
September 24, 2004  
Page -2-

(such as in a scanned pdf file) [jhefner@kmob.com](mailto:jhefner@kmob.com), or U.S. Mail. We look forward to receiving the completed documents discussed above. If you have any questions, please contact me.

Sincerely,



Jerry L. Hefner

Enclosures

S:\DOCS\VLH\VLH-2815.DOC\072204

**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL BIODISCS AND DISC DRIVE SYSTEMS; the specification of which was filed on **February 28, 2002** as Application Serial No. **10/087,549**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.	Filing Date
60/272,134	February 28, 2001
60/272,243	February 28, 2001
60/272,525	March 1, 2001
60/275,006	March 12, 2001
60/275,643	March 14, 2001
60/278,691	March 26, 2001
60/314,906	August 24, 2001
60/352,270	January 30, 2002

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application(s)

Application No.: 09/997,741

Filing Date: 11/27/01

Status: **Pending**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

---

Full name of first inventor: **Brigitte Chau Phan**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 15910 Meagher, Fountain Valley, CA 92708

Citizenship: United States

Post Office Address: Same as residence address

Full name of second inventor: **Amethyst Hoang Lam**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 5 Middleton, Irvine, CA 92620

Citizenship: United States

Post Office Address: Same as residence address

Full name of third inventor: **KaYuen Yeung**

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 1326 Third Avenue, San Francisco, California 94122

Citizenship: United States

Post Office Address: Same as residence address

---

Send Correspondence To:

**KNOBBE, MARTENS, OLSON & BEAR, LLP**

**Customer No. 20,995**

S:\DOCS\ULH\ULH-2831.DOC\072904

ASSIGNMENT

WHEREAS, I, KaYuen Yeung, a United States citizen, residing at 1326 Third Avenue, San Francisco 94122, have invented certain new and useful improvements in a METHODS FOR DECREASING NON-SPECIFIC BINDING OF BEADS IN DUAL BEAD ASSAYS INCLUDING RELATED OPTICAL BIODISCS AND DISC DRIVE SYSTEMS for which I have filed an application for Letters Patent in the United States, Application No. 10/087,549, filing date February 28, 2002;

AND WHEREAS, BURSTEIN TECHNOLOGIES, INC., (hereinafter "ASSIGNEE"), a Delaware Corporation, with its principal place of business at 163 Technology Drive, Suite 200, Irvine, California 92618, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, I, the said inventor, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I DO HEREBY sell, assign, transfer, and convey to ASSIGNEE, his successors, legal representatives, and assigns all claims for damages and all remedies arising out of any violation of the rights assigned hereby that may have accrued prior to the date of assignment to ASSIGNEE, or may accrue hereafter, including, but not limited to, the right to sue for, collect, and retain damages for past infringements of the said Letters Patent before or after issuance.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
KaYuen Yeung

STATE OF                     }  
                                      }  
COUNTY OF                } ss.

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared KaYuen Yeung personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Signature

**Knobbe Martens Olson & Bear LLP**

Intellectual Property Law  
550 West C Street Suite 1200  
San Diego CA 92101

JLH

KAYUEN YEUNG  
1326 THIRD AVENUE  
SAN FRANCISCO, CALIFORNIA 94122

\*\*\*\*RETURN SERVICE REQUESTED\*\*\*\*

NAGACO.018CPI

Sent on  
10/18/04

5 of 11 DOCUMENTS

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**PERSON SUMMARY REPORT**

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Yeung, Helen  
Yeung, Kayuen

**Telephone:**

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**Address Variation(s):**

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## ATTRIBUTES:

Gender: Female  
Date of Birth: 11/1972

## Roles and Occurrences in Data:

Name Variation(s) As Found:	3
Real Property Owner:	0
Mortgage(s):	0
Aircraft Owner:	0
Boat Owner:	0
Bankruptcy Petitioner:	0
Other Bankruptcy Party:	0
Judgment:	0
Debtor:	0
Creditor:	0
Executive:	0
Registered Agent:	0



Yeung, Helen

**SOURCES**

P-FIND - Person Locator (Region 10)	1
P-TRAK - Person Locator (Region 16)	2
P-TRAK Person Locator (Region 9)	1
USFIND - Person Locator (Area Code Region 4)	1

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